

## **TITLE 14. Fish and Game Commission**

### **Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1580, 1581, 1583 and 1907 of the Fish and Game Code and to implement, interpret or make specific sections 1526, 1528, 1530 and 1580-1585 of said Code, proposes to amend Section 630, Title 14, California Code of Regulations, relating to Ecological Reserves.

#### **Informative Digest/Policy Statement Overview**

Currently, there are 125 ecological reserves designated in Section 630, Title 14, CCR, for the purpose of protecting threatened and endangered plants, animals and specialized habitat types. Section 630 provides general regulations for these reserves and special area regulations to protect resource values while permitting compatible public use of these areas.

The Department of Fish and Game (Department) proposes the following changes to general regulations in Section 630, Title 14:

Amend the prohibition of firearms to further prohibit devices capable of shooting a projectile for the protection of species, habitats and public safety.

Amend the prohibition of littering to include a prohibition of dumping for the protection of species, habitats, public health and safety.

Amend the prohibition of grazing on ecological reserves to allow grazing for habitat or vegetation management purposes. For clarity, this proposal includes the removal of all special area regulations allowing grazing for management purposes.

Amend the general regulation which prohibits operation of aircraft within any ecological reserve to clarify the types of aircraft included in the prohibition. An additional amendment would prohibit aircraft from flying over any ecological reserve in any manner that is incompatible with the use or protection of the biological resources of the reserve. Proposed amendments would also delegate authority from the Commission to the Department to permit flying over an ecological reserve for law enforcement or management purposes. Parachuting over any ecological reserve would also be prohibited.

Amend the general regulation which prohibits pets from entering a reserve unless on a leash of less than ten feet, or within a motor vehicle, except as provided for in individual area regulations to clarify that no person shall allow their pets to enter any ecological reserve except as provided in this section. This amendment is proposed to allow more effective enforcement of restrictions on pets.

Provide a new general regulation which gives Department regional managers the authority to manage public uses on ecological reserves where those public uses are not provided for in Section 630 for the protection of species, habitats, public health and public safety.

The Department is requesting that this section be amended to add seven new ecological reserves to this listing to regulate public use and provide the best available protection for the

species and habitats the properties were acquired to protect. Since the properties contain sensitive species and important vegetation communities, and may act as linkages for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources. In order to do this efficiently, the Department has a set of general regulations which apply to all ecological reserves. The seven new reserves are:

Big Table Mountain consisting of 1,107 acres in Fresno County for the protection of vernal pools and the numerous sensitive plant species that inhabit the area.

Buena Vista Creek consisting of 134 acres in San Diego County is proposed for designation as an ecological reserve for the conservation and enhancement of riparian habitat and adjacent uplands for the federally threatened California gnatcatcher, and for the state and federally listed endangered least Bell's vireo.

Palo Verde consisting of 1,352 acres in Riverside County is proposed for designation as an ecological reserve for the conservation of important riparian and wetland habitats in the lower Colorado River Basin.

Peninsular Ranges consisting of 2,385 acres in Riverside County is proposed for designation as an ecological reserve for the protection of the peninsular bighorn sheep, desert tortoise, least Bell's vireo and southwestern willow flycatcher.

Semitropic, consisting of 6,770 acres in Kern County is proposed for designation as an ecological reserve for the protection of shadscale scrub, alkali sink scrub and associated upland habitats for the San Joaquin kit fox, Tipton's kangaroo rat, San Joaquin antelope squirrel, burrowing owl, San Joaquin whipsnake, blunt-nosed leopard lizard, and Coast horned lizards.

Sky Valley, consisting of 1,739 acres in Riverside County, is proposed for designation as an ecological reserve for the protection of an important wildlife corridor connecting Joshua Tree National Park and the Coachella Valley Ecological Reserve, and habitat for the state and federally threatened desert tortoise. One special regulation is proposed for this reserve to allow upland game hunting.

Stone Ridge, consisting of 754 acres in Butte County, is proposed for designation as an ecological reserve for the protection of blue oak woodland, vernal pools and swales, clay flats, ephemeral and intermittent creeks, and associated uplands for mountain lion, black bear, western spadefoot, burrowing owl, ferruginous hawk, bald eagle, black-shouldered kite, the rare Adobe lily, the rare Butte County checkerbloom, Ahart's paronychia, and the federally endangered Butte County meadowfoam.

The Department is requesting the following special regulations for individual properties to give an additional level of protection, or to permit specific public uses not governed by the general regulations based on management information gathered which shows these regulations are necessary to protect the habitat or species the properties support.

The Department proposes to amend special area regulations for the existing Ballona Wetlands Ecological Reserve to restrict entry to designated access points and prohibit pets for the protection of species and habitats. The posting of signs, flagging or any

markings will also be prohibited to prevent nuisances to the reserve and local community. A special regulation will prohibit the use of model aircraft, rockets, vehicles and devices, including those that are remote controlled, motorized, combustion propelled, or non-motorized to protect species and habitats from disturbance, and to prevent wildfire.

A special regulation for Big Table Mountain Ecological Reserve will allow biological research and monitoring activities that are compatible with the primary purposes of the reserve.

The Department proposes to remove one special area regulation for the existing Burton Mesa Ecological Reserve that allows hunting for upland game, because in the course of developing its management plan for the reserve, the department has determined the reserve is not large enough to support adequate upland game populations or hunting opportunities. A new special regulation will prohibit horses and bicycles on the reserve for the protection of the sensitive Burton Mesa Chaparral and the species it supports.

The Department proposes to amend one special area regulation for the existing Carrizo Canyon Ecological Reserve that prohibits entry to the reserve from June 15 through September 30. The proposed regulation would extend the period during which entry is prohibited from January 1 through September 30 for the protection of bighorn sheep.

A proposed amendment for the existing Carrizo Plains Ecological Reserve will split the existing Chimineas Unit into two units, the South Chimineas Unit and the North Chimineas Unit. This will allow for more effective regulation of public use on these areas. A special regulation is also proposed to prohibit hunting of coyote and ground squirrel on the South Chimineas and North Chimineas Units to protect against incidental take of San Joaquin kit fox and burrowing owl on these areas. In addition, a special regulation will require a permit for access to the South Chimineas Unit, and the return of any issued permits to the Department upon departure from the area. This regulation will allow the Department to effectively regulate public use and sustain high quality hunting opportunities.

The Department proposes to amend special area regulations for the existing Coal Canyon Ecological Reserve to allow horses and bicycles only on designated trails. Access will not be allowed on the designated trails within 72 hours of any weather event that produces  $\frac{1}{4}$  inch of precipitation in any 24 hour time period, or any such event that produces  $\frac{1}{2}$  inch of precipitation within any 72 hour time period. This restriction will protect habitats and the species, and prevent damage to the trail. This special regulation is consistent with regulations for neighboring properties of the Cleveland National Forest and Chino Hills State Park. Consistency in these regulations will allow the Department to benefit from the enforcement actions of U.S. Forest Service and Chino Hills State Park enforcement staff.

The Department proposes to amend an existing special area regulation for the existing Cosumnes River Ecological Reserve to clarify that in allowing farming under permit from the Department consistent with the primary purpose of the reserve, the farming shall be for management purposes. The amendments further clarify that in allowing such farming, the Department may exercise exceptions to subsections (a) (4) prohibiting

motor vehicles except on designated roads and parking areas and (a) (11) prohibiting the introduction of species.

The Department proposes to amend an existing special area regulation for the existing Magnesia Spring Ecological Reserve that prohibits entry to the reserve from June 15 through September 30. The proposed regulation would extend the period during which entry is prohibited from January 1 through September 30 for the protection of bighorn sheep. In addition, the Department proposes to amend a special regulation to allow employees of the City of Palm Desert to enter the reserve in the performance of official duties. A new special regulation for the reserve will define a year-round trail route open to pedestrians and bicycles for the protection of bighorn sheep.

Special regulations for Palo Verde Ecological Reserve will allow farming for management purposes consistent with the primary purpose of the reserve, and restrict access to restoration areas and the lower floodplain for the protection of these important areas. Additional special regulations will allow management activities such as burning, use of pesticides and the use of related equipment by cooperating agencies. Biological and archaeological research as well as the collection of plants and animals for educational purposes will also be allowed. A special regulation will prohibit horseback riding for the protection of important habitats. In addition, hunting of rabbit, dove, quail and waterfowl will also be allowed on the reserve.

A special regulation for Peninsular Ranges Ecological reserve will allow upland game hunting.

The Department proposes to add one special area regulation for the existing Santa Rosa Plateau Ecological Reserve to prohibit smoking on the reserve, except when inside a vehicle. This special regulation will protect species, habitats and neighboring communities from the threat of catastrophic wildfire and reduce the incidence of littering on the reserve.

A special regulation for Semitropic Ecological Reserve is proposed to allow the Department to issue permits for research or monitoring activities that are compatible with the purposes of the reserve.

A special regulation for Sky Valley will allow upland game hunting.

A special regulation for Stone Ridge Ecological Reserve will prohibit entry to the reserve for the protection of sensitive species and habitats. The Department may grant access to the reserve with written permission for purposes of environmental education and biological research.

The Department proposes removing Dairy Mart Ponds and Pismo Lake ecological reserves from the existing list of ecological reserves because they are no longer owned or managed by the Department.

Two administrative amendments are proposed. The listing for Phoenix Field Ecological Reserve is stricken and replaced elsewhere in the list to correct an alphabetizing error. The list of ecological reserves is also re-numbered, and the subsections for several areas are re-lettered to account for the addition and deletion of reserves and amendments to special area

regulations. In addition, editorial changes are proposed to improve the clarity and consistency of the regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, 1<sup>st</sup> Floor, Sacramento, California, on Friday, November 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 26, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 30, 2007. All comments must be received no later than November 2, 2007, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Dr. Eric Loft, Chief, Wildlife Branch, Department of Fish and Game, phone (916) 445-3555, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulatory action adds seven ecological reserves to Title 14 with special regulations for six of them, removes two ecological reserves from the list of reserves, amends special regulations for seven reserves, corrects alphabetizing errors, and re-numbers the reserve listing. The regulatory action is proposed to provide maximum protection of wildlife and habitat and to manage appropriate public uses. It is not expected to negatively affect businesses, because the regulations are enforced only on the specific properties named.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

### Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: August 28, 2007

John Carlson, Jr.  
Executive Director